



## Judgments concerning Andorra, Austria, Azerbaijan, Bulgaria, Croatia, Georgia, Italy, Latvia, Lithuania, Montenegro, Romania, Russia, Serbia and Turkey

The European Court of Human Rights has today notified in writing the following 20 judgments, of which one (in italics) is a Committee judgment and is final. The others are Chamber judgments<sup>1</sup> and are not final.

Repetitive cases<sup>2</sup> and length-of-proceedings cases, with the Court's main finding indicated, can be found at the end of the press release. The judgments in French are indicated with an asterisk (\*).

### Ball v. Andorra (application no. 40628/10)

The applicant, Toby Nigel Ball, is a British national who was born in 1969 and lives in Sant Julia de Loria (Andorra). Mr Ball complained that, pending his appeal in divorce proceedings, the domestic courts had refused to enforce a final judicial decision rendered in June 2008 within the framework of separation proceedings which had set up a contact schedule with his two children, born in 1992 and 2003, thus depriving him of any meaningful contact with them. He relied in particular on Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

#### **No violation of Article 8**

### Asadbeyli and Others v. Azerbaijan (nos. 3653/05, 14729/05, 20908/05, 26242/05, 36083/05, and 16519/06)

The applicants are eleven Azerbaijani nationals who were born between 1952 and 1984 and live in Sumgayit, Baku, and Gabala (Azerbaijan). The case essentially concerned the applicants' complaints about the unfairness of criminal proceedings brought against them following their arrest for allegedly participating in an unauthorised demonstration of 16 October 2003 in protest against the presidential elections. The protest had escalated into violent clashes between opposition supporters and the law-enforcement authorities. Relying in particular on Article 6 §§ 1 and 3 (b), (c), and (d) (right to a fair trial) of the Convention, they alleged that there had been serious breaches of numerous fair trial guarantees in the criminal proceedings against them, rendering their trials wholly unfair. One of the applicants, Elshad Eyvaz oglu Mammadov, further complained that he had been prosecuted in two separate sets of proceedings (administrative and criminal) brought against him for his involvement in the demonstration, in breach of Article 4 of Protocol No. 7 (right not to be tried or punished twice).

<sup>1</sup> Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a judgment's delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Under Article 28 of the Convention, judgments delivered by a Committee are final.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

<sup>2</sup> In which the Court has reached the same findings as in similar cases raising the same issues under the Convention.

**Violation of Article 6 § 1 taken together with Article 6 § 3 (b), (c) and (d)  
Violation of Article 4 of Protocol No. 7** (in respect of Elshad Mammadov)

**Just satisfaction:** 12,000 euros (EUR) to Elshad Mammadov, EUR 10,000 to Hasan Mammadov's brother, Islam Mammadov, EUR 10,000 each Bahruz Asadbeyli, Shirali Hamidov, Emin Huseynli, Saleh Aliyev, Ramiz Guliyev, Sadiq Dashdamirli, Ilgar Allahverdiyev and Yashar Jafarli (non-pecuniary damage) and EUR 2,400 to Ilgar Allahverdiyev (costs and expenses).

**Nenkova-Lalova v. Bulgaria (no. 35745/05)**

The applicant, Antoaneta Nenkova-Lalova, is a Bulgarian national who was born in 1961 and lives in Sofia. The case concerned Ms Nenkova-Lalova's dismissal from her job as a journalist for the State-owned Bulgarian National Radio (the "BNR"), where she had hosted a current affairs radio show. She had been dismissed on disciplinary grounds, notably for wilfully disregarding an editorial decision as to the choice of BNR employees who were to take part in a radio show on 9 October 1998. Relying on Article 10 (freedom of expression), Ms Nenkova-Lalova alleged that the real reason for her dismissal had been because she had aired on her show the results of an investigation into corruption of the then ruling political party (the Union of Democratic Forces). Further relying on Article 6 § 1 (right to a fair hearing within a reasonable time), she also complained about, in particular, the excessive length of the proceedings she had brought to challenge her dismissal. Ms Nenkova-Lalova now works for Deutsche Welle in the Bulgarian section.

**No violation of Article 10****Violation of Article 6 § 1** (length)

**Just satisfaction:** EUR 585 (non-pecuniary damage) and EUR 500 and BGN 320 (costs and expenses)

**Remetin v. Croatia (no. 29525/10)**

The applicant, Tomislav Remetin, is a Croatian national who was born in 1989 and lives in Dubrovnik (Croatia). Relying in particular on Article 8 (right to respect for private life), Mr Remetin complained about the authorities' failure to carry out an effective investigation into his complaint that, following an argument with another boy over a ball in a school playground, he had been physically attacked by the father of the boy. He was 13 years old at the time.

**Violation of Article 8**

**Just satisfaction:** EUR 7,500 (non-pecuniary damage)

**Tarbuk v. Croatia (no. 31360/10)**

The applicant, Dušan Tarbuk, is a Croatian national who was born in 1956 and lives in Zagreb. In October 1995 Mr Tarbuk was arrested and placed in pre-trial detention on suspicion of espionage during the Homeland war in Croatia (the Croatian War of Independence from 1991 to 1995). He was subsequently amnestied and the criminal proceedings against him were discontinued. Upon his release he instituted civil proceedings for damages against the State for the period of his detention. During the civil proceedings the relevant domestic law was amended in that it excluded the possibility to obtain compensation for detention if the criminal proceedings had been discontinued based on the amnesty. Relying on Article 6 § 1 (right to a fair trial), the

applicant complained that the legislative intervention had rendered his proceedings unfair.

**No violation of Article 6 § 1**

**Irakli Mindadze v. Georgia (no. 17012/09)**

The applicant, Irakli Mindadze, is a Georgian national who was born in 1955 and is currently serving a 12-year prison sentence for drugs offences. Arrested in March 2007, he was ultimately convicted in December 2007 of unlawful purchase and possession of heroin. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), he alleged in particular a lack of adequate medical care in prison for his viral Hepatitis C and several other medical problems.

**Violation of Article 3** (inadequate medical treatment in prison)

**Just satisfaction:** EUR 5,000 (non-pecuniary damage)

**Anna De Rosa and Others v. Italy (nos. 52888/08, 58528/08, 59194/08, 60462/08, 60473/08, 60628/08, 61116/08, 61131/08, 61139/08, 61143/08, 610/09, 4995/09, 5068/09 and 5141/09)\***

The applicants are 35 Italian nationals. Formerly employed by the Province of Milan as administrative assistants, officials, technical assistants and heads of administration in schools, they were employed from 31 December 1999 by the Ministry of National Education, following the transfer of staff from the regional civil service to the State civil service. The case concerned a legislative measure that had been unfavourable to the applicants, enacted in the course of the civil proceedings brought by them seeking recognition, for all legal and financial purposes, of the length of their service with the Province of Milan. Relying on Article 6 § 1 (right to a fair trial), the applicants alleged that had this law (Law no. 266 of 2005 on the 2006 Finance Act) not been applied, they would almost certainly have won their case. They considered that the legislative measure in question had been motivated solely by the authorities' financial interests.

**Violation of Article 6 § 1**

**Just satisfaction:** from EUR 225 to EUR 1,900 to each applicant for pecuniary damage and from EUR 5,000 to EUR 8,000 in each application for costs and expenses

**Vovruško v. Latvia (no. 11065/02)**

The applicant, Aleksejs Vovruško, is a Latvian national who was born in 1968 and lives in Rīga. The case concerned his allegation that he had been ill-treated in April 1998 while in police custody on suspicion of assault, and in particular that police officers had put a plastic bag and a gas mask over his head in order to extort a confession from him. He also alleged that the authorities' ensuing investigation into his complaint, plagued by excessive delays, had been inadequate and had shown that they had had no intention of finding out the truth. He relied on Article 3 (prohibition of torture and of inhuman or degrading treatment).

**Violation of Article 3** (investigation)

**Just satisfaction:** EUR 4,000 (non-pecuniary damage)

### Timofejevi v. Latvia (no. 45393/04)

The applicants, Zintis and Jevgenijs Timofejevi, son and father, are Latvian nationals who were born in 1958 and 1984 respectively and live in Drabeši parish, Amata municipality (Latvia). In June 2004 both applicants were arrested and charged with assaulting a police officer. Zintis Timofejevs, stopped by the police for driving without a valid driving licence, had tried to escape and resist arrest and Jevgenijs Timofejevs had attempted to obstruct his son's arrest. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), Zintis Timofejevs alleged in particular that excessive use of force had been used against him during his arrest and that the investigation into this allegation had been inadequate.

**Violation of Article 3** (investigation)

**Just satisfaction:** EUR 4,000 to Zintis Timofejevi (non-pecuniary damage)

### Venskutė v. Lithuania (no. 10645/08)

The applicant, Marytė Venskutė, is a Lithuanian national who was born in 1978 and lives in Vilnius. The case concerned her complaint that the State Border Guard Service investigators had arrived at the restaurant where she had been working on 25 May 2005 to question her in an insurance fraud case and that she had then been taken to their headquarters for questioning. She was released the following day and the investigation against her of fraud subsequently discontinued. Relying on Article 5 § 1 (right to liberty and security), she alleged that she had in fact been detained as a suspect in the case and that her detention, not properly recorded, had in fact been to harass and intimidate her into giving information. She also complained under Article 5 § 5 (enforceable right to compensation) about the dismissal of the compensation claim she had brought for unlawful detention.

**Violation of Article 5 § 1**

**No violation of Article 5 § 5**

**Just satisfaction:** EUR 7,500 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

### Banu v. Romania (no. 60732/09)\*

The applicant, Gheorghe Banu, is a Romanian national who was born in 1951 and lives in Targoviște. Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicant complained about his conditions of detention in Jilava Prison between 2 December 2008 and 18 May 2010. He complained in particular about prison overcrowding.

**Violation of Article 3** (prison overcrowding)

**Just satisfaction:** EUR 3,750 (non-pecuniary damage)

### Gina Ionescu v. Romania (no. 15318/09)\*

The applicant, Gina Ionescu, is a Romanian national who was born in 1974 and lives in Bucharest. Relying on Article 2 (right to life), she complained of shortcomings in the investigation into her husband's accidental death, and especially of its length. Employed by a company specialising in industrial climbing, he had been electrocuted by a metal beam while working ten metres above the ground on a project to install advertising signs. The investigation, which had been opened on the day of his death in 2002, was

still pending, the file having been transferred several times between various police departments and the prosecutor's office.

**Violation of Article 2** (investigation)

**Just satisfaction:** EUR 15,000 (non-pecuniary damage)

### Ileana Constantinescu v. Romania (no. 32563/04)\*

The applicant, Ileana Constantinescu, is a Romanian national who was born in 1950 and lives in Bucharest. A foreign languages teacher at the Academy of Economic Sciences in Bucharest, she is the daughter of the economist N.N. Constantinescu, who was, among other things, a professor and member of the Romanian Academy. The case concerned Ms Constantinescu's criminal conviction following the publication of a book on her father's life, published after his death. I.E., a former colleague of N.N. Constantinescu and deputy president of the Romanian Association of Economists, had filed a criminal complaint against Ms Constantinescu, arguing that he had been defamed by certain passages in the book, particularly those calling into question his management of the Economists' House and implying that he had taken advantage of N.N. Constantinescu's ill health. The applicant relied on Article 10 (freedom of expression).

**Violation of Article 10**

**Just satisfaction:** EUR 1,000 (pecuniary damage), EUR 7,000 (non-pecuniary damage) and EUR 140 (costs and expenses)

### Svinarenko and Slyadnev v. Russia (nos. 32541/08 and 43441/08)

The case concerned the practice of keeping criminal defendants detained on remand in metal cages during hearings on their cases. The applicants, Aleksandr Svinarenko and Valentin Slyadnev, are Russian nationals who were born in 1968 and 1970 respectively and live in the settlement of Sinegorye in the Yagodninskiy District of the Magadan Region (Russia). Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), both applicants, accused of violent crimes including robbery, alleged that they had been subjected to humiliating treatment when having to appear in court in a metal cage during their trial. They also complained under Article 6 § 1 (right to a fair trial within a reasonable time) about the excessive length of the criminal proceedings against them.

**Violation of Article 3** (treatment)

**Violation of Article 6 § 1** (length)

**Just satisfaction:** EUR 7,500 to each applicant (non-pecuniary damage)

### Tangiyev v. Russia (no. 27610/05)

The applicant, Timur Tangiyev, is a Russian national who was born in 1977 and is serving a 23 year and 10 month prison sentence in the Vladimir Region (Russia) for, among other things, the murder of two police officers. The case concerned his allegation that he had been tortured both during his arrest – he had been beaten and burnt with cigarette butts and matches – and subsequently in police custody – he had been subjected to electrocution – in order to make him confess to the murders. He also complained that the ensuing investigation into his allegations had been inadequate. He relied in particular on Article 3 (prohibition of torture and of inhuman or degrading treatment). Further relying on Article 6 § 1 (right to a fair trial within a reasonable time), he complained that the criminal proceedings against him had been unfair, notably because his conviction had been based on a forced confession. Lastly, he alleged that his

family had been persecuted and their house had been set on fire in February 2010 as a result of him bringing his application before the European Court, in violation of Article 34 (right of individual petition).

**Two violation of Article 3** (treatment + investigation)

**Violation of Article 6 § 1** (unfairness)

**No violation of Article 34**

**Just satisfaction:** EUR 45,000 (non-pecuniary damage) and EUR 2,260 (costs and expenses)

## Athary v. Turkey (no. 50372/09)

The applicant, Hamid Athary, is an Iranian national who was born in 1973 and lives in the Netherlands. He arrived in Turkey in December 2004 and, a political dissident in Iran, was granted a temporary residence permit pending his asylum claim. In 2007 he was convicted of a drugs offence and sentenced to 18 months' imprisonment. His case essentially concerned his complaint that, following his release from prison in December 2008, he had been immediately detained in the Kumkapı Foreigners' Removal Centre. He was released from the removal centre in April 2010 when he left Turkey for the Netherlands where he had been granted refugee status. Relying in particular on Article 5 §§ 1, 2, and 4 (right to liberty and security), he notably alleged that his detention in the removal centre had been unlawful, that he had not been informed of the reasons for his detention and that he had not had an effective remedy in domestic law to effectively challenge the lawfulness of his detention there.

**Violation of Article 5 § 1**

**Violation of Article 5 § 2**

**Violation of Article 5 § 4**

**Just satisfaction:** EUR 9,000 (non-pecuniary damage)

## Halil Yüksel Akıncı v. Turkey (no. 39125/04)\*

The applicants are six Turkish nationals, Mr Halil Yüksel Akıncı, Mr Yücel Akıncı, Mr Ufuk Akıncı, Mr Oğuz Akıncı and Mr Gökhan Emre Akıncı, and Ms Hatice Akıncı, who were born in 1945, 1944, 1968, 1970, 1973 and 1981 and live in Muğla. Mr Halil Yüksel Akıncı and Ms Hatice Akıncı are the parents of Lütfi Volkan Akıncı ("Lütfi Volkan"), and the other applicants are his brothers. The case concerned Lütfi Volkan's death in the course of obligatory military service. On 6 June 2002 he was found alone in a room, seriously injured, and died the same day in hospital. According to the applicants, their relative ought to have been dispensed from military service by the army, given the psychological problems from which he suffered. They also alleged that shortcomings in the investigation had not enabled the possibility of a murder to be eliminated. They relied in particular on Article 2.

**Violation of Article 2** (right to life)

**No violation of Article 2** (investigation)

**Just satisfaction:** The applicants did not submit any claim for just satisfaction.

## Repetitive cases

The following cases raised issues which had already been submitted to the Court.

***Ivanov v. Bulgaria*** (no. 19988/06)

**Violation of Article 1 of Protocol No. 1**

## **Violation of Article 13**

**Milić v. Montenegro and Serbia** (no. 28359/05)

**Violation of Article 6 § 1** – in respect of Montenegro

**Violation of Article 13** – in respect of Montenegro

## Length-of-proceedings case

In the following case, the applicant complained in particular about the excessive length of civil proceedings.

**Gassner v. Austria** (no. 38314/06)

**No violation of Article 6 § 1**

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.